

**FULL TEXT OF MEASURE C
COUNTY OF ORANGE**

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF ORANGE, CALIFORNIA

THE PEOPLE OF THE COUNTY OF ORANGE HEREBY ORDAIN AND
ENACT AS FOLLOWS:

SECTION 1. TITLE

This ordinance shall be known as the ORANGE COUNTY HOMELAND SECURITY INFRASTRUCTURE FUND ORDINANCE.

SECTION 2. FINDINGS AND DECLARATIONS

- (a) The Local Public Safety Protection and Improvement Act of 1993, established by Proposition 172, codified at Article 13, Section 35 of the California Constitution, provides funding for local public safety services through imposition of a one-half cent sales tax.
- (b) Proposition 172 funding was intended to make up for the loss of county and city revenue resulting from 1992 State legislation that shifted property tax revenue from counties and cities to the Education Revenue Augmentation Fund ("ERAF") to help fund schools.
- (c) In Fiscal Year 2003-2004 the revenue lost to the County of Orange because of the ERAF shift was over \$261 million.
- (d) The Orange County Fire Department, now the Orange County Fire Authority, was exempt from the ERAF shift and for Fiscal Year 2003-2004 lost no revenue as a result of the ERAF shift.
- (e) Proposition 172, as implemented, gives authority to the County to allocate Proposition 172 sales tax revenues to public safety services.
- (f) The County currently allocates its Proposition 172 funds to the Sheriff's Department and the District Attorney's Office that both lost funding because of the ERAF shift and not to the Orange County Fire Authority that was exempt from the ERAF shift and lost no revenues because of ERAF.
- (g) Since September 11, 2001, there has been an ever-increasing need for the County and other local public safety agencies to invest funds for the purchase of high technology equipment, capital projects and other equipment for the detection and prevention of terrorism and crime, and to secure the County from disruption or damage to its critical infrastructures and communications systems by illegal activities and/or natural disasters.
- (h) The Orange County Sheriff-Coroner Department provides countywide public-safety services, including crime prevention activities; dive team; forensic science services, including a state-of-the-art DNA analysis laboratory, communications, including the 800 MHz communications systems used by every jurisdiction in the county; investigation of economic and computer crimes; enforcement of fugitive warrants; hazardous device squad; helicopter response; homicide detail; hostage negotiation; mounted patrol; narcotics detail; operation of county jail system, including jail inmate transportation; sexcrime and family-protection detail; coroner investigations; and courtroom security.
- (i) Dispatch calls to the Orange County Sheriff-Coroner Department in 2004 resulted in approximately 64,000 reports generated for investigation and disposition by the Sheriff's Department. The Orange County jail system is the third largest in California and eleventh largest in the nation. Approximately 5,900 felons and misdemeanants from every jurisdiction within the county are housed in the county's jails on any given day. This is a 9.3% increase over the previous year's headcount average. In fiscal year 2003-2004, 64,933 inmates were booked into the county jail system, a 4.84% increase over the prior year.
- (j) The Orange County Sheriff-Coroner Department is the lead agency for purposes of homeland security for the Orange County Operational Area, which encompasses the entire county and is comprised of 114 member agencies. Among its functions as lead agency for the County's anti-terrorism and homeland security efforts is the administration of the Terrorism Early Warning Group, which monitors trends and threats that could result in terrorist attacks anywhere in the county and integrates disease surveillance, essential to identifying biological terrorism, into its overall analysis of terrorist threats. The Sheriff's Department is also responsible for the preparation and adoption of the countywide Emergency Management Plan and the planning and staging of full-scale terrorism and other emergency-response exercises.

- (k) The residents of Orange County rely on the Orange County District Attorney to bring criminals to justice by initiating and conducting prosecutions for public offenses, as mandated by the California Government Code. The District Attorney prosecutes felony and misdemeanor crimes, investigates criminal activity through partnerships with county law enforcement agencies, and processes petitions for juvenile wardship.
- (l) In 2004, the Orange County District Attorney prosecuted 78,405 defendants, including the prosecution of 8 cold-case murders, with a conviction rate in excess of 90%. The District Attorney is also responsible for representing the People of Orange County in certain civil matters before the courts, including major litigation aimed at protecting Orange County's groundwater supply from MTBE contamination from gasoline retailers.
- (m) The Orange County Probation Department is responsible for monitoring adult criminals and juvenile offenders, detaining juvenile offenders, enforcing court orders and collecting restitution for victims of crime across the county.
- (n) In 2004 the Probation Department actively supervised a monthly average of some 9,856 high-risk adult criminals, including sex offenders, and 4,182 juvenile offenders. The Probation Department discontinued supervision of 3,200 adult criminals in Fiscal Year 2003-2004 due to budget cuts that reduced its funding.
- (o) Daily there are approximately 800 juvenile offenders housed in the Probation Department's juvenile detention facilities. Probation Department's Juvenile Court Division processes a monthly average of 375 juveniles for detention and 700 for supervision and conducts a monthly average of 130 investigations for the court. The Probation Department's Adult Court Division conducts a monthly average of 81 investigations for the court. There are over 450 adult sex offenders under the Probation Department's supervision and some 550 serious gang cases are under investigation by its Gang Violence Suppression Unit. The Probation Department confiscated 669 weapons in 2004.
- (p) The people of the County of Orange find that it is necessary and appropriate to provide a legislative guarantee that a portion of the County's Proposition 172 sales tax revenues be allocated for the purchase of the latest technology, capital projects and other equipment to strengthen the County's homeland security and protection.
- (q) California Elections Code section 9221 provides that if the provisions of two or more ordinances adopted at the same election conflict, the ordinance receiving the highest number of affirmative votes shall control.
- (r) This ordinance is intended to be in conflict with and inconsistent with each and every provision of, and is intended as an alternative to, the "Initiative Reallocating a Portion of County Proposition 172 Funds from the County Sheriff-Coroner and District Attorney to the Orange County Fire Authority". Further, the People do intend that this ordinance is in conflict with and is not complementary to any other measure on the same ballot that allocates any portion of the County's Proposition 172 sales tax revenues. *Taxpayers to Limit Campaign Spending v. FPPC*, 51 Cal. 3d 744 (1990); *Concerned Citizens v. City of Carlsbad*, 204 Cal. App. 3d 937 (1988).

SECTION 3. Article 16 of division 4 of Title 1 (commencing with Section 1-4-300) of the Codified Ordinances of Orange County is added to read:

Section 1-4-300. Definitions

For the purpose of this article, the following definitions shall apply:

"County" means County of Orange.

"County's Share" means the portion of the Public Safety Fund that is not allocated to cities.

"Eligible Public Safety Services" means the countywide public safety services provided by the County Probation Department, including its juvenile hall detention facilities and its adult and juvenile offenders' monitoring programs; the County's Sheriff-Coroner Department, including its adult correctional facilities, investigative divisions, specialized patrol functions and coroner investigation teams; the County's District Attorney's Office, including its prosecution and investigative units; County lifeguards; and no other public safety services defined by the Law or permitted by the Law to receive Proposition 172 sales tax revenues.

"Law" means the local Public Safety Fund Law (California Government Code Title 3, Division 3, Chapter 6.5, Section 30051 *et seq.*) as may be amended from time to time, and as intended as the legislature's implementation of Article XIII, Section 35 of the California Constitution.

"Public Safety Fund" means the Public Safety Augmentation Fund created in the County Treasury pursuant to the terms of the Law.

SECTION 1-4-261. Homeland Security Infrastructure Fund

- (a) The Homeland Security Infrastructure Fund is hereby created in the County Treasury.
- (b) Commencing in the fiscal year 2006-2007 and in each fiscal year thereafter, the County shall allocate \$10 million of the County's Share of Proposition 172 sales tax revenues to the Homeland Security Infrastructure Fund and the remainder of the County's Share shall be allocated to Eligible Public Safety Services as defined by this Ordinance. In fiscal year 2009-2010 and for each fiscal year thereafter, the County's \$10 million allocation to the Homeland Security Infrastructure Fund will increase or decrease by the same percentage as the previous fiscal year's increase or decrease in the County's Share of Proposition 172 sales tax revenues.

SECTION 1-4-262. Allocation of Homeland Security Infrastructure Fund

- (a) Monies in Homeland Security Infrastructure Fund shall be annually allocated and appropriated by the County to public safety services as defined by the Law for Capital Projects, Equipment and/or other Tangible Items that improve, enhance or augment the County's homeland security as recommended by the Homeland Security Infrastructure Fund Oversight Committee.

- (b) No money in the Homeland Security Infrastructure Fund shall be allocated or appropriated for employee salaries or benefits.

SECTION 1-4-263. Establishment and Duties of Homeland Security Infrastructure Fund Oversight Committee

- (a) The Homeland Security Infrastructure Fund Oversight Committee (the "Oversight Committee") shall consist of the following five (5) members:
1. County Sheriff
 2. County District Attorney
 3. Chairman, Orange County Board of Supervisors
 4. President, Orange County Fire Chiefs' Association
 5. President, Orange County Police Chiefs' and Sheriffs' Association
- (b) Each year after adoption of this ordinance, on or before the County's Budget Hearings for the next fiscal year, the Oversight Committee shall submit to the County a recommendation for the allocation and appropriation of the Homeland Security Infrastructure Fund.
- (c) The Oversight Committee shall meet at such times and places as it determines, and shall appoint such committees as it deems necessary, in order to make its annual recommendation to the County
- (d) The Oversight Committee shall adopt policies and procedures for public safety services as defined by the Law to submit proposals each year for the expenditure of Homeland Security Infrastructure Fund monies, including capital projects and equipment for the improvement, enhancement and/or augmentation of the County's homeland security, for the Oversight Committee's consideration in making its recommendations to the County.

SECTION 4. COMPETING MEASURES

Notwithstanding any provision or provisions in any other measure on the same ballot, the People intend that this ordinance is in conflict with and is inconsistent with each and every provision of, and is intended as an alternative to, the "Initiative Reallocating a Portion of the County Proposition 172 funds from the County Sheriff-Coroner and District Attorney to the Orange County Fire Authority" or any other competing measures on the same ballot as this measure that purports to allocate any portion of the county's Proposition 172 sales tax revenue.

SECTION 5. SEVERABILITY

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The People of Orange County hereby declare that they would have adopted this ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsection, subdivision, sentence, clause, phrase, or portions thereof be declared invalid or unconstitutional.

IMPARTIAL ANALYSIS BY COUNTY COUNSEL MEASURE C

In 1993, California voters approved the Local Public Safety Protection and Improvement Act of 1993 (Proposition 172), a constitutional amendment, directing that proceeds of a one-half cent statewide sales tax be used only for local public safety services. Qualified counties, including Orange County, receive allocations of Proposition 172 funds from the State. Within each qualified county, the Proposition 172 funds are allocated to cities that provide local public safety services, and the remainder is allocated to the county. Proposition 172 funds must be used for public safety services as specified in California law, including sheriffs, police, fire protection, county district attorneys, county corrections and ocean lifeguards. Currently, Orange County's share of Proposition 172 funds that is not allocated to the cities (the "County's Share") is allocated to the County Sheriff-Coroner and District Attorney for law enforcement services.

If the measure is adopted, beginning with the 2006-2007 fiscal year, \$10 million of the County's Share would be shifted to the Homeland Security Infrastructure Fund (the "Homeland Security Fund") in the County Treasury. Beginning with the 2009-2010 fiscal year, the \$10 million allocation to the Homeland Security Fund would be adjusted annually to reflect changes in the County's Share, and would increase or decrease by the same percentage as the prior fiscal year's increase or decrease in the County's Share.

The Homeland Security Fund would be required to be expended for capital projects and equipment that improve the County's homeland security by providers of public safety services as specified in California law, including sheriffs, police, fire protection, county district attorneys, county corrections and ocean lifeguards. The measure further provides that the Homeland Security Fund shall not be allocated for employee salaries or benefits.

The rest of the County's Share that is not allocated to the Homeland Security Fund would be available for allocation by the County only to eligible public safety services as specified in the measure, namely, the County Probation Department (including juvenile hall and adult and juvenile offenders' monitoring programs), the County Sheriff-Coroner (including adult correctional facilities, investigative divisions, specialized patrol functions and coroner investigation teams), the County District Attorney (including prosecution and investigation units) and County lifeguards.

The measure would establish a five member Homeland Security Infrastructure Fund Oversight Committee (the "Committee"), consisting of the County Sheriff, the County District Attorney, the Chairman of the Orange County Board of Supervisors, the President of the Orange County Fire Chiefs' Association and the President of the Orange County Police Chiefs' and Sheriffs' Association. After consideration of proposals by public safety service providers, the Committee would make recommendations annually to the County for allocation of the Homeland Security Fund.

The measure provides that it is in conflict with and is intended as an alternative to competing measures on the ballot that allocate any portion of the County's Proposition 172 funds, including the Initiative Reallocating a Portion of the County's Proposition 172 Funds From the County Sheriff-Coroner and District Attorney to the Orange County Fire Authority (Measure D).

MEASURE C
Orange County Homeland Security Infrastructure Fund Ordinance
Fiscal Impact Statement

If passed, there would be no fiscal effect to the amount of revenues available to support countywide public safety programs provided by the County of Orange (County). The measure would restrict a portion of the Proposition 172 funds to expenditures for capital projects and equipment that improve the County's homeland security as recommended by the Homeland Security Infrastructure Fund Oversight Committee. In addition, there would be estimated administrative costs to the County of less than \$1,000 per year to implement the measure.

This measure would establish a Homeland Security Infrastructure Fund by annually allocating \$10 million of the County's share of Proposition 172 revenue starting in fiscal year 2006-07. The allocation would increase or decrease each year, beginning fiscal year 2009-10, by the same percentage as the previous fiscal year's increase or decrease in the County's share of Proposition 172 sales tax revenues.

In 1993, the California voters approved the Local Public Safety Protection and Improvement Act of 1993 (Proposition 172) as a mitigation measure to offset the impact of the Education Revenue Augmentation Fund ("ERAF") shifts on municipal budgets. In 1992 and 1993, the California Legislature and Governor instructed county auditors to shift the allocation of local property tax revenues away from local government to ERAF for the benefit of schools. The allocation formula is based on the proportionate share of net property tax loss due to the ERAF shifts. The following table illustrates the relationship between these ERAF shifts and Proposition 172 County revenues:

Year	ERAF	Proposition 172	Variance
1992-93	\$(14,527,988)	--	\$(14,527,988)
1993-94	(159,328,571)	\$130,357,584	(28,970,987)
1994-95	(157,840,022)	141,143,489	(16,696,533)
1995-96	(158,216,656)	152,494,439	(5,722,217)
1996-97	(159,372,366)	161,186,301	1,813,935
1997-98	(164,444,481)	173,665,323	9,220,842
1998-99	(174,106,932)	184,049,906	9,942,974
1999-00	(188,481,617)	209,748,928	21,267,311
2000-01	(206,551,203)	223,604,856	17,053,653
2001-02	(225,274,561)	213,607,460	(11,667,101)
2002-03	(244,917,635)	219,562,310	(25,355,325)
2003-04	(261,247,391)	236,946,901	(24,300,490)
2004-05	<u>(283,310,895)</u>	<u>262,101,986</u>	<u>(21,208,909)</u>
	<u>\$(2,397,620,318)</u>	<u>\$2,308,469,483</u>	<u>\$(89,150,835)</u>

There are no plans in the State for reducing or eliminating these ERAF shifts. A separate shift, not illustrated in the table above, took \$27,730,861 from the County's 2004-05 budget and will take an additional \$27,730,861 from the 2005-06 budget.

This measure would not affect the total funding for countywide public safety programs. It would, however, transfer authority for recommending how a portion of the funds is to be spent to a five member oversight committee. The following table illustrates allocations to the Homeland Security Infrastructure Fund. Future Proposition 172 revenues are based on a Chapman University forecast.

	Estimated Proposition 172 Sales Tax Revenues	Estimated Allocations to The Homeland Security Infrastructure Fund		Estimated Proposition 172 Sales Tax Revenues	Estimated Allocations to The Homeland Security Infrastructure Fund
2004-05	\$262,101,986		2010-11	\$345,914,960	\$10,941,160
2005-06	276,255,493		2011-12	361,827,049	11,444,453
2006-07	288,963,246	\$10,000,000	2012-13	378,471,093	11,970,898
2007-08	302,255,555	10,000,000	2013-14	395,880,763	12,521,560
2008-09	316,159,311	10,000,000	2014-15	414,091,278	13,097,551
2009-10	330,702,639	10,460,000	2015-16	433,139,477	<u>13,700,039</u>
			Ten Year Total		<u>\$114,135,661</u>

If passed, this measure would require that approximately \$114,135,661 of the County's share of Proposition 172 revenues be used for capital projects and equipment that improve, enhance, or augment the County's homeland security as recommended by the oversight committee over the next ten years.

David E. Sundstrom
County Auditor-Controller

ARGUMENT IN FAVOR OF MEASURE C

If the tragic terrorist attacks of September 11, 2001 were a wake-up call for America, the recent attacks on the city of London serve as a reminder that we live in dangerous times and ORANGE COUNTY MUST BE PREPARED TO COPE WITH THIS NEW THREAT TO OUR COMMUNITY.

As both a major population center and tourist destination, Orange County is an inviting target for those who seek to create havoc and instill fear.

YOUR YES VOTE ON MEASURE C will help make sure that those we entrust to provide for public safety will have the tools they need to keep our county safe.

Measure C will create a new Homeland Security Infrastructure Fund in the county treasury. Starting in the 2006-2007 fiscal year, ten million dollars will be appropriated out of the county's share of Proposition 172 sales tax revenue into the fund.

Measure C will allow all eligible County Public Safety Services throughout the County to submit proposals for capital projects and equipment to be funded out of the Infrastructure Fund.

The requests for funding will be evaluated and rated by an Oversight Committee comprised of the Orange County District Attorney, the Orange County Sheriff, the president of the Orange County Fire Chiefs Association, the president of the Orange County Police Chiefs Association and the Chairman of the Orange County Board of Supervisors.

NONE of the ten million dollars can be spent on salaries or benefits

Each year the most important projects for Orange County Homeland Security will be funded. YOUR YES VOTE ON MEASURE C will help keep Orange County safe from terrorist attack.

s/ Tom Wilson
Vice Chairman Orange County Board of Supervisors

s/ Gary R. Adams
Lieutenant Colonel (RET) USAR

s/ John "Rocky" Hewitt, Ph.D.
Orange County Assistant Sheriff Retired

s/ Stephen James
President-Southern California Alliance of Law Enforcement

s/ Gregory Palmer
President, Anaheim Police Association

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE C

Measure C does nothing to protect against the threat of terrorist attacks. The tragic events of 9-11, and more recently the horrible events in Madrid and London, demonstrate the vital importance of fire fighters and paramedics in saving innocent lives put in harm's way by terrorists bent on ruining our way of life.

But Measure C doesn't guarantee that a single penny will be provided for increased fire protection. The only thing Measure C does is allow the Board of Supervisors to continue breaking promises made to California voters in 1993 during the campaign for Proposition 172 that fire fighters would receive their fair share of Proposition 172 revenues.

Measure C creates a new government bureaucracy, composed of highly paid career politicians, whose only function is making "recommendations" to the Supervisors.

Your fire fighters don't need another bureaucracy telling them how to save your lives and homes from destruction. Your fire fighters need the materials and tools to do so!

Don't be mislead by county bureaucrats' scare tactics. Put your tax dollars to work where they will provide you with the greatest degree of safety and protection. Don't vote to put tax dollars into another government bureaucracy.

For more information on go to:

www.Firefightersforpublicsafety.com

When you need paramedics and fire fighters, they are there for you. Now, paramedics and fire fighters need your help.

Please vote NO on Measure C.

s/ Ken Blake, Mayor of the City of La Palma

s/ James V. Lacy, Dana Point City Council

s/ Richard Chavez, Mayor Pro Tem of the City of Anaheim

s/ Mike Boyle, President of the Orange County Fire Authority Chief Officer's Association

s/ Joe Kerr, President of the Orange County Professional Firefighters' Association

ARGUMENT AGAINST MEASURE C

Don't be fooled by the Supervisors' attempts to trick you. ***This measure may lead to new taxes.*** Measure C does not provide a single penny for fire fighters. Measure C was placed on the ballot by the Supervisors to confuse you.

In 1993, while homes burned in Laguna Beach, voters in Orange County adopted Proposition 172, which extended a half-cent sales tax to be used exclusively to fund ***fire protection***, police and other public safety programs. As indicated in the statewide ballot pamphlet argument printed in favor of Proposition 172, the voters were ***promised*** that a portion of Proposition 172 funds would go to ***fire protection***.

Since the passage of Proposition 172, over \$2 billion in funds have been given to the County, yet the Supervisors have failed to provide a single penny from the Proposition 172 fund for fire protection.

Measure C ***does not provide a single penny for increased paramedic service, or fire protection.*** The only thing it does is allow the Supervisors to break a promise made to the voters in 1993 that fire fighters would receive some of the Proposition 172 funds.

Because of the Supervisors' refusal to provide a single penny of Proposition 172 funds for fire protection, your Orange County Fire Authority firefighters are forced to use aging equipment and over half of your Orange County Fire Authority fire stations are understaffed.

Your fire fighters and paramedics have always been there for you. Today they need your help.

Please vote **NO ON MEASURE C.**

s/ Ken Blake, Mayor of the City of La Palma

s/ James Lacy, Dana Point City Council

s/ State Senator Bill Morrow

s/ Mike Boyle, President of the Orange County Fire Authority Chief Officer's Association

s/ Joe Kerr, President of the Orange County Professional Firefighters

REBUTTAL TO ARGUMENT AGAINST MEASURE C

The opponents to Measure C have written arguments that are untrue, irrelevant and redundant. If you repeat false statements over and over again they still don't become the truth.

Measure C redirects 10 million dollars a year of EXISTING proposition 172 sales tax proceeds to the most important projects submitted each year to help KEEP ORANGE COUNTY RESIDENTS SAFE FROM TERRORISM.

Measure C does NOT raise taxes!

Measure C honors the intention of Proposition 172 that the money raised by the sales tax adopted in 1993 should be spent for the benefit of all county residents...not just those served by a regional agency.

Measure C will allow police, firefighters, prosecutors and others to submit requests to a distinguished panel of experts who will annually prioritize those public safety measures which will best protect Orange County from the threat of terrorist attack.

Al Qaeda terrorists are now firing missiles at US Navy ships. Terror cells have been exposed in California. Terrorist leaders have called on Jihadists to sneak into California across the Mexico border. The Governors of Arizona and New Mexico have declared border emergencies because of unchecked illegal immigration.

Measure C helps provide the tools we need to withstand this increasing threat.

Shame on the opponents of this measure for attempting to trivialize this issue!

Please help protect and keep Orange County safe by voting YES on Measure C.

s/ Tom Wilson

Vice Chairman Orange County Board of Supervisors

s/ Gary R. Adams

Lieutenant Colonel (RET) USAR

s/ John "Rocky" Hewitt, Ph.D.

Orange County Assistant Sheriff Retired

s/ Stephen James

President-Southern California Alliance of Law Enforcement

s/ Gregory Palmer

President, Anaheim Police Association